

30 CFR
Mineral Resources
CHAPTER II
MINERALS MANAGEMENT SERVICE, DEPARTMENT OF THE INTERIOR
SUBCHAPTER B -- OFFSHORE

**PART 280 -- PROSPECTING FOR MINERALS OTHER THAN OIL, GAS, AND
SULPHUR IN THE OUTER CONTINENTAL SHELF**

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Authority: 43 U.S.C. 1331 *et seq.*, 42 U.S.C. 4332 *et seq.*

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§280.0 Authority for information collection.

The information collection requirements contained in part 280 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* and assigned OMB clearance number 1010-0072. The information is being collected to inform the Minerals Management Service (MMS) of OCS minerals activities. The information will be used to ensure that such activities are conducted in a safe and environmentally responsible manner in compliance with governing laws and regulations. The obligation to respond is mandatory.

§280.1 Purpose and applicability.

Section 5(a) of the Act (43 U.S.C. 1334(a)(1)) states that the Secretary "* * * shall prescribe such rules and regulations * * * necessary to carry out * * *" the provisions of the Act. The primary purpose of the regulations in this part is to prescribe policies, procedures, and requirements for conducting data and information-gathering activities associated with geological and geophysical (G&G) prospecting and scientific research in the OCS for minerals other than oil, gas, and sulphur. The regulations in this part do not apply to activities authorized under a mineral lease. Activities authorized under the regulations in this part do not give rise to any rights or interests in any OCS mineral discovered as a result of approved prospecting or scientific research activities.

§280.2 Definitions.

When used in this part, the following terms shall have the meaning given below:

Act means the OCS Lands Act, as amended (43 U.S.C. 1331 *et seq.*)

Adjacent State means with respect to any activity proposed, conducted, or approved under this part, any coastal State(s) -- (1) That is used, or is scheduled to be used, as a support base for G&G prospecting or scientific research activities; or (2) in which there is a reasonable probability of significant effect on land or water uses from such activity.

Archaeological resource means any material remains of human life or activities that are at least 50 years of age and that are of archaeological interest.

Data means G&G facts and statistics or samples which have not been analyzed, processed, or interpreted.

Director means the Director of the MMS of the U.S. Department of the Interior or an official authorized to act on the Director's behalf.

Geological and geophysical (G&G) scientific research means any investigation conducted in the OCS for scientific research purposes which involves the gathering and analysis of G&G data and information which are made available to the public for inspection and reproduction at the earliest practicable time. This does not include scientific research related to oil, gas, and sulphur.

Geological sample means a collected portion of the seabed, the subseabed, or the overlying waters acquired while conducting prospecting or scientific research activities.

Governor means the Governor of a State or the person or entity lawfully designated to exercise the powers granted to a State Governor.

Information means G&G data that has been analyzed, processed, or interpreted.

Lease means one of the following, whichever is required by the context: Any form of authorization which is issued under section 8 or maintained under section 6 of the Act and which authorizes exploration for, and development and production of, specific minerals or the area covered by that authorization.

Material remains means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

Minerals has the same meaning as the term is defined in section 2(q) of the Act.

National Environmental Policy Act (NEPA) means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

OCS minerals means any mineral found on or below the surface of the seabed but does not include oil, gas, or sulphur.

Of archaeological interest means capable of providing scientific or humanistic understanding of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques, such as controlled observation, contextual measurements, controlled collection, analysis, interpretation, and explanation.

Outer Continental Shelf (OCS) means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Permit means the contract or agreement, other than a lease, approved pursuant to this part under which a person acquires the right to conduct prospecting or scientific research activities.

Permittee means the person authorized by a permit issued pursuant to this part to conduct prospecting or scientific research activities in the OCS.

Person means a citizen or national of the United States; an alien lawfully admitted for permanent residency in the United States as defined in 8 U.S.C. 1101(a)(20); a private, public, or municipal corporation organized under the laws of the United States or of any State or territory thereof; and an association of such citizens, nationals, resident aliens, or private, public, or municipal corporations, States, or political subdivisions of States; or anyone operating in a manner provided for by treaty or other applicable international agreements. The term does not include Federal Agencies.

Prospecting activities means the gathering of any G&G data and information for the purpose of determining the feasibility of commercial recovery, which has as its objective the establishment and documentation of the nature, shape, concentration, location, and tenor of an OCS mineral resource. Such activities shall include (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the

presence of minerals; and (2) the gathering through drilling or other means of geological samples which could be used for the purpose of discovering, characterizing, or evaluating OCS mineral deposits. Prospecting activities do not include G&G scientific research.

Secretary means the Secretary of the Interior or an official authorized to act on the Secretary's behalf.

Significant archaeological resource means those archaeological resources that meet the criteria of significance for eligibility to the National Register of Historic Places as defined in 36 CFR 60.4.

[53 FR 25256, July 5, 1988, as amended at 59 FR 53094, Oct. 21, 1994]

§280.3 Activities requiring a permit.

(a) No prospecting activities shall be conducted in the OCS without a permit approved by the Director pursuant to this part, unless such activities are being conducted pursuant to authority contained in a lease issued or maintained under part 256 or part 281 of this title or unless such activities are conducted by a Federal Agency.

(b) No person may conduct G&G scientific research activities in the OCS without a permit approved by the Director pursuant to this part if the proposed activities include either: (1) The drilling of a borehole to a depth greater than 300 feet below the seafloor; or (2) the use of solid or liquid explosives.

(c) Any person may conduct G&G scientific research in the OCS without obtaining a permit pursuant to this part if --

(1) The activities will not interfere with or endanger operations under any lease or right-of-way maintained or issued pursuant to the Act;

(2) The activities will not be unduly harmful to aquatic life in the area; result in pollution; create hazardous or unsafe conditions; unreasonably interfere with other uses of the area; or disturb any site, structure, or object of historical or archaeological significance; and

(3) The person conducting the activities or operating the vessel from which the activities are to be conducted has consulted and coordinated the conduct of those activities with any other users of the area.

(d) The Director may orally approve plan revisions or issue emergency permits to accommodate unforeseen or special circumstances. Oral approvals given for a written application shall be followed with a written confirmation by MMS. In the event an oral approval is given in response to an oral request, the applicant shall confirm the oral request in writing within 72 hours of the approval.

§280.4 Term of permit.

Permits approved under this part shall be granted for a term not to exceed 3 years. The Director may extend the term of a permit for an additional period(s) of time not to exceed a total of 2 years when the Director determines that the additional time is appropriate based upon a showing of good cause by the permittee.

§280.5 Application for a prospecting or scientific research permit.

(a) An application for a prospecting or scientific research permit shall be submitted to the Director at least 60 days prior to the date proposed as the startup date for activities in the permit area.

(b)(1) An application for a prospecting permit shall be submitted in a form and manner approved by the Director. Three copies of each application shall be submitted and shall include --

(i) The name, address, and nationality of the person(s) submitting the application;

(ii) The name, address, and telephone number of the person(s) directly responsible for conducting the activities proposed;

(iii) A description and a map of the area(s) covered by the application;

(iv) The period of time to be covered by the primary term of the permit not to exceed 3 years;

(v) A narrative description in nonproprietary terms of the activities to be conducted, such as mapping, geophysical surveying, drilling, bottom sampling, and dredging;

(vi) A detailed description and schedule giving the estimated starting and completion dates for the proposed activities that are to be authorized under the permit; and

(vii) A prospecting plan.

(2) An applicant for a prospecting permit shall indicate which data and information included in the application and plan the applicant considers proprietary.

(c) Upon application submitted by a permittee pursuant to this section, the Director may approve the conversion of a permit issued under part 251 of this title to a permit issued under this part. A permit issued under part 251, which is converted to a permit issued under this part, shall be subject to all the requirements of this part.

(d) An application for a permit to conduct scientific research activities shall be submitted in a form approved by the Director. The application should be signed by an officer of the organization proposing to carry out the activity and shall state --

- (1) The name of the person conducting the proposed research;
- (2) The type of research activity and manner in which it will be conducted;
- (3) The location designated on a map, plat, or chart where the research activity will be conducted;
- (4) A schedule indicating the starting and completion dates for each proposed scientific research activity;
- (5) The proposed time and manner in which the information and data resulting from the research will be made available to the public for inspection and reproduction, such time being the earliest practicable time;
- (6) An agreement that the information and data resulting from the scientific research activity will not be sold or withheld for exclusive use;
- (7) The name, registry number, registered owner, and port of registry of vessels used in the operation; and
- (8) A scientific research plan.

(e) Within 30 days following the receipt of an application for a permit and the accompanying plan which does not require preparation of an environmental analysis the Director shall --

- (1) Approve the application and plan;
- (2) Require the applicant to modify the application and/or plan; or
- (3) Disapprove the application and plan. If the Director disapproves an application and plan, the statement of rejection shall give the reasons for the disapproval and shall advise the applicant of the changes needed to obtain approval.

§280.6 Prospecting or scientific research plan.

(a) The applicant shall submit a plan with its application for a prospecting or scientific research permit. The plan shall include --

- (1) Identification of the mineral(s) or material(s) of primary interest, if appropriate;

- (2) A detailed description of the activities to be conducted;
 - (3) The type(s) of equipment to be used with special attention to safety and pollution prevention and control features and the name, registration, and mobile communication system of vessel(s);
 - (4) Maps showing location of proposed activities including drill holes, grab or basket samples, anticipated depth of penetration of drill holes, water depth, and location of proposed survey grids for each surveying method which is to be employed;
 - (5) A schedule indicating the starting and completion dates for each proposed activity;
 - (6) Anticipated environmental consequences of each proposed activity;
 - (7) Mitigation measures to be used to avoid or minimize adverse environmental impacts of proposed activities;
 - (8) For any activities which are to occur in an environmentally sensitive area, a plan for monitoring the effects of the activities on the environment;
 - (9) Any known archaeological resources in the area of the proposed activities; and
 - (10) Description of any potential conflicts with other uses or users in the permit area.
- (b) If the penetration of one or more proposed drill holes will exceed 300 feet, the Director may require a drilling plan to be included as part of the plan before a permit is issued.
- (c) If all needed information is not available at the time the plan is submitted, a plan shall indicate when the needed information will be obtained and submitted. In such a case, depending on the significance of the missing information, the Director may disapprove the plan, approve the plan based on the information submitted, or approve the plan with a specific condition that certain specified activities are not authorized and shall not be conducted until additional information is obtained and submitted for evaluation, and the Director gives specific approval to proceed with those activities.

§280.7 Obligations of persons.

- (a) Activities authorized under a prospecting or scientific research permit issued under this part or research authorized pursuant to the provisions of §280.5(c) of this part shall be conducted so as not to create conditions which will pose an unreasonable risk of --
- (1) Interference with, or endangerment of, operations under any lease or permit issued or maintained pursuant to the Act;

- (2) Serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life) or to the marine, coastal, or human environment;
 - (3) Serious, irreparable, or immediate harm or damage to property or to any mineral (in areas leased or not leased);
 - (4) Pollution;
 - (5) Disturbance of archaeological resources;
 - (6) Hazardous or unsafe conditions; or
 - (7) Interference with or serious, irreparable, or immediate harm to other uses of the area.
- (b) The permittee or scientific researcher shall allow the Director to be present on any cruise.
- (c) The permittee shall notify and obtain the prior approval of the Director before a substantial change from the approved plan is initiated.

§280.8 Reporting.

(a) The permittee shall submit a status report to the Director within 30 days of the close of each calendar quarter or more frequently if requested by the Director. The report shall include a summary of the prospecting or scientific research activities conducted prior to the end of the reporting period and the results obtained. The last quarterly report may be combined with the final report if the final report is submitted within 30 days after the end of the last quarter in which permitted activity occurs. Each permittee shall submit to the Director a final report of activities conducted under the permit within 6 months after expiration of the permit or after the completion of prospecting or scientific research activities, or 60 days prior to a planned lease offering when prospecting or scientific research activities are within the planned leasing area, whichever is sooner, provided that no report shall be required less than 30 days after completion of permitted activities. The report shall include --

- (1) A description of the work performed;
- (2) Charts, maps, or plats depicting the area and blocks in which any activities were conducted specifically, identifying the lines of geophysical traverses and/or the locations where geological activity was conducted;
- (3) The dates on which the actual activities were performed;
- (4) A narrative summary of any mineral occurrences encountered including location, environmental features, and the nature and degree of adverse effects, if any, of the

permitted activities on the environment, aquatic life, archaeological resources, or other uses of the area in which the activities were conducted;

(5) A report of the results of the environmental monitoring required in §280.6(a)(8) of this part; and

(6) Such other descriptions of the activities conducted as may be specified by the Director.

(b) All persons shall immediately notify the Director of all serious accidents, any death or serious injury, or fire or explosion connected with any activity conducted pursuant to this part.

§280.9 Recordkeeping.

(a) Any permittee who acquires rock and mineral samples under a permit shall keep for 1 year after submittal of the final report a representative split of each geological sample and a quarter longitudinal segment of each core which shall be available for inspection at the convenience of the Director who may cut such core and geological samples for retention by MMS.

(b) Any permittee who acquires G&G data and information under a permit shall keep the data and information available for 3 years after submittal of the final report. The data and information shall be available for inspection and copying at a location within the appropriate OCS Region or at another location approved by the Director. The records shall include environmental data and information; G&G data and information; drill logs; analyses of cores, cuttings, and samples; and maps and navigation tapes showing the location where samples were taken and test drilling conducted.

§280.10 Environmental effects.

The potential of proposed prospecting or scientific research activities for adverse impact on the environment will be evaluated by MMS to determine the need for mitigation measures. The MMS anticipates that activities of the type listed below typically will not cause significant environmental impact and, in accordance with 516 DM 6, Appendix 10 to the Departmental Manual, will normally be categorically excluded from additional environmental analysis. The types of activities include --

(a) Gravity and magnetometric observations and measurements;

(b) Bottom and subbottom acoustic profiling or imaging without the use of explosives;

(c) Mineral sampling of a limited nature such as that using either test drillholes or cores to less than 300 feet below the seafloor;

- (d) Water and biotic sampling, if the sampling does not adversely affect shellfish beds, marine mammals, or an endangered species or if permitted by the National Marine Fisheries Service or another Federal Agency;
- (e) Meteorological observations and measurements, including the setting of instruments;
- (f) Hydrographic and oceanographic observations and measurements, including the setting of instruments;
- (g) Sampling by box core or grab sampler to determine seabed geological or geotechnical properties;
- (h) Television and still photographic observation and measurements;
- (i) Shipboard mineral assaying and analysis; and
- (j) Placement of positioning systems, including bottom transponders and surface and subsurface buoys reported in Notices to Mariners.

§280.11 Notification.

- (a) The Governor(s) of adjacent State(s) shall be notified by the Director with a copy of the application for a permit with the accompanying plan immediately upon the submission of an application for approval.
- (b) In cases where an environmental assessment is to be prepared, the Director will invite the Governor(s) of adjacent States(s) to review and provide comments regarding the proposed activities. The Director's invitation to provide comments shall allow the Governor a specified period of time to comment.
- (c) The Director shall notify Federal Agencies, as appropriate, with a copy of the application for a permit with the accompanying plan immediately upon the submission of the application for approval.

§280.12 Disclosure of information to the public.

- (a) The Director shall make data, information, and samples available in accordance with the requirements and subject to the limitations of the Act, the Freedom of Information Act (5 U.S.C. 552), and the implementing regulations.
- (b) For geological data, information, and samples and geophysical information submitted under a permit and retained by MMS, the Director shall make such data, information, and samples available to the public 25 years after the date of submission of the data and information or such earlier time as may be agreed to by the permittee who provides the data or information. Geophysical data submitted under a permit and retained by MMS

shall be made available to the public by the Director 50 years after the date of submission to MMS unless an earlier date is agreed to by the permittee who submits the data.

(c) The Director reserves the right to disclose any data, information, or samples submitted by a permittee to an independent contractor or agent for the purpose of reproducing, processing, reprocessing, or interpreting the data or information. Such contractor or agent shall be subject to the same limitations on disclosure of data, information, and samples as those applicable to the Director under paragraph (b) of this section.

§280.13 Disclosure of data and information to the adjacent States.

(a) Proprietary data, information, and samples submitted to MMS by permittees shall be made available to adjacent State(s) upon request by the Governor(s) in accordance with paragraphs (b), (c), and (d) of this section.

(b) Disclosure shall occur only after the Governor has entered into an agreement with the Secretary providing that --

(1) The confidentiality of the information shall be maintained;

(2) In any action commenced against the Federal Government or the State for the failure to protect the confidentiality of proprietary information, the Federal Government or the State, as the case may be, may not raise as a defense any claim of sovereign immunity or any claim that the employee who revealed the proprietary information, which is the basis of the suit, was acting outside the scope of the person's employment in revealing the information;

(3) The State agrees to hold the United States harmless for any violation by the State or its employees or contractors of the agreement to protect the confidentiality of proprietary data and information and samples; and

(4) The materials containing the proprietary data, information, and samples shall remain the property of the United States.

(c) The data, information, and samples available to the State(s) pursuant to an agreement shall be related to leased lands.

(d) The materials containing the proprietary data, information, and samples shall be returned to MMS when they are no longer needed by the State or when requested by the Director.

§280.14 Suspension or temporary prohibition of activities.

The Director may suspend or temporarily prohibit the conduct of G&G prospecting or scientific research activities by notifying the person conducting the activity, either orally or in writing, when the Director determines that there is a threat of serious, irreparable, or

immediate harm or damage to life (including fish and other aquatic life), property, any mineral (in areas leased or not leased), the national security or defense, or the marine, coastal, or human environment; or there is a failure to comply with a provision of the Act or of any applicable law, the provisions of the permit, or provisions of these and other applicable regulations. Such suspension or temporary prohibition shall be effective immediately upon receipt of the notice. Suspensions or temporary prohibitions issued orally shall be followed by a written notice confirming the action, and all written notices will be sent by certified or registered mail. A suspension or temporary prohibition shall remain in effect until the basis for the suspension or temporary prohibition has been corrected to the satisfaction of the Director.

§280.15 Cancellation or relinquishment.

The Director may cancel or a permittee may relinquish, in whole or in part, a permit to conduct prospecting or scientific research activities at any time by sending a notice of cancellation or a notice of relinquishment. Such notices shall state the reason for the cancellation or relinquishment and shall be sent by certified or registered mail to the other party at least 30 days in advance of the date that the cancellation or relinquishment will be effective.

§280.16 Remedies and penalties.

Persons conducting activities in the OCS pursuant to this part shall be subject to the remedies and penalties provisions of section 24 of the Act and the applicable civil penalty procedures contained in part 250 of this title for noncompliance with any provision of the Act, permit, regulation, or order issued under the Act. The remedies or penalties prescribed in this section shall be in addition to any other penalty afforded by any other law or regulation.

§280.17 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in part 290 of this title.